IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 18780 of 2004

Between:

Maddipati Nageswar Rao, S/o.Narasanna,
R/o.Kaldari Village, Tanuku Mandal,

West Godavari Dist. **..... PETITIONER**

AND

1. The Asst. Commercial Tax officer (No.1) C.T.O., office,

Tanuku, W.G.Dist.
2. The Commercial Tax officer, C.T.O., office,

Tanuku, W.G.Dist.
3. The Deputy Commissioner of Commercial Tax,

Eluru, W.G.Dist. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus, declaring the action of the respondent in attempting to attach the entire property of the petitioner in an extent of 61 ¾ cents of land in Sy.No.315/313 of pasalapudi village, Tanuku Mandal, West Godavari District as illegal arbitrary, against natural justice, violative of Articles 14 and 21 of the constitution of India, and consequently direct the respondents not to take any coercive steps.

Counsel for the Petitioner: MR.B.S.V.PRAKASH KUMAR

Counsel for the Respondents: GP FOR COMMERCIAL TAXES

The Court made the following :

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ORDER: (PER HON'BLE SRI JUSTICE B.SUDERSHAN REDDY)

Heard learned Counsel for the petitioner and learned Government Pleader for Commercial Taxes and at their request the matter is taken up for final disposal at the stage of admission itself.

The petitioner, admittedly, offered Ac.0-10 cents of land in R.S.No.315/313 of Pasalapudi village as security about which there is no dispute. The petitioner's son admittedly became the defaulter in payment of sales tax arrears. That in the process of recovery of the amount, the petitioner is also put on notice requiring him to show cause as to why the landed property admeasuring 61 ¾ cents in S.No.315/313 cannot be attached and brought to sale for recovery of the tax due from the petitioner's son. In this writ petition, the claim of the petitioner is that he had offered only Ac.0-10 cents of land out of 61 ¾ cents and not the entire land therefore whole of the property admeasuring 61 ¾ cents cannot be attached and brought to sale for realization of the tax arrears.

We are not inclined to express any opinion with regard to the said contention. The petitioner is merely put on notice. He is entitled to file his objections before the Deputy Commercial Tax Officer and satisfy him that no proceedings as against the petitioner for the entire extent of the land can be taken for realization of the tax arrears, since he offered only 0-10 cents of land as security. The objections, if any, to be raised by the petitioner shall be duly considered by the Asst. Commercial

Tax Officer (No.1), Tanuku, and an appropriate decision thereon shall be taken before the property is attached and brought to sale. It is needless to observe that the petitioner's liability shall be confined only to the extent of land, which he gave as security and not more than that.

The Writ Petition is accordingly disposed of. No costs.

B. SUDERSHAN REDDY, J

22-11-2004

T.CH.SURYA RAO, J

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lur/msv

Copy to:

1. The Asst. Commercial Tax officer (No.1) C.T.O., office,

Tanuku, W.G.Dist.
2. The Commercial Tax officer, C.T.O., office,

Tanuku, W.G.Dist.
3. The Deputy Commissioner of Commercial Tax,

Eluru, W.G.Dist.

4. Two CCs to the G.P. for Commercial Taxes

High Court Buildings, High Court of A.P.,

Hyderabad (O.U.T.)

5. Two CD copies.